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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,263	01/25/2002	Milad F. Tabet	M-12468 US	4087
34036	7590	06/17/2004	EXAMINER	
SILICON VALLEY PATENT GROUP LLP 2350 MISSION COLLEGE BOULEVARD SUITE 360 SANTA CLARA, CA 95054			PUNNOOSE, ROY M	
			ART UNIT	PAPER NUMBER
			2877	

DATE MAILED: 06/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/058,263	TABET, MILAD F.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Roy M. Punnoose	2877	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>05/28/2004</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Fanton et al (US 6,707,056 B2).

3. Claims 1, 5 and 11 are rejected because:

A). Fanton et al (Fanton hereinafter) discloses an apparatus 15 and method comprising orienting a substrate 1 with respect to an ellipsometer, producing a light beam with an ellipsometer, said light beam creating an elliptical light spot (see light spot B, Figure 5) and measuring surface properties of a selected test area with said ellipsometer (see col.2, line48 – col.3 line 9), a rotatable stage 19, 21 (see col.2, lines 49-50) for mounting said substrate 1, said apparatus and method for ellipsometrically measuring a test area on a substrate using an elliptical light spot produced by said ellipsometer for improving the measurements (see col. 1, lines 11-14) of a selected test area of a substrate under test. However, Fanton does not explicitly disclose that the elliptical light spot fit diagonally within a test area in an apparatus and method for ellipsometrically measuring a test area on a substrate using an elliptical light spot produced by said ellipsometer for improving the measurements of a selected test area of a substrate under test.

B). Fanton teaches that the elliptical light spot position and orient a test area for making measurements of any test site and within said elliptical light spot (see col.3, lines 2-8) in an

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apparatus and method for ellipsometrically measuring a test area on a substrate using an elliptical light spot produced by said ellipsometer for improving the measurements of a selected test area of a substrate under test.

C). In view of Fanton's teachings, it would have been obvious to one of ordinary skills in the art at the time the invention was made to incorporate a method where said elliptical light spot fit diagonally within a test area in an apparatus and method for ellipsometrically measuring a test area on a substrate using an elliptical light spot produced by said ellipsometer for improving the measurements of a selected test area of a substrate under test.

4. Claims 2-4, 6-10 and 12-14 are rejected because in view of Fanton's teachings as disclosed above, specifically about the rotatable stage 19, 21 (see col.3, lines 22-31) it would have been obvious to one of ordinary skills in the art at the time the invention was made to determine the angle of diagonal of the test area from the amount of rotation of the rotatable stage 19, 21 or to rotate the stage by a predetermined angle so that the major axis of the light spot is aligned with the angle of the diagonal of the test area.

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Roy M. Punnoose** whose telephone number is **571-272-2427**.

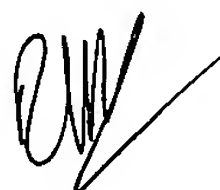
The examiner can normally be reached on 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Frank G. Font** can be reached on **571-272-2415**. The fax phone number for the organization where this application or proceeding is assigned is **703-872-9306**.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**Roy M. Punnoose**  
Patent Examiner  
Art Unit 2877  
June 13, 2004



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**Mr. Frank G. Font**  
Supervisory Patent Examiner